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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,342	10/29/2003	John C. Montagna	FRAME-59X	8078

7590 01/19/2005

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EXAMINER
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PEDDER, DENNIS H

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 01/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/696,342

Applicant(s)

MONTAGNA ET AL.

Examiner

Dennis H. Pedder

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12/04 AND 1/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 and 23-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 23-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The term “cam-follower bearing” is not understood from the disclosure, which appears to detail only a roller. As no definition is given for the term “French F-channel”, this term is not understood from the disclosure.

Applicant’s comments in this regard are noted. However, the words in the specification and in the cited patents regarding these two terms is not descriptive in any sense that would enable one to determine the scope of the claims. Regarding the “cam-follower bearing”, the description in the cited patents merely describes the environment in which a bearing is located, not the structure of such a bearing.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 3612

As no definition is given for the term "French F-channel", this term is not understood in context.

"Cam-follower bearing" appears to be an error for a --roller--. There is no cam in this application, therefore there is no follower.

Claim 1 is inconsistent as one roller cannot form a set.

Claim 18 has no dependency listed and is treated upon art as dependent on claim 1 as a result.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1, 5, 26-28 rejected under 35 U.S.C. 102(e) as being anticipated by Darbshire, US 6,328,364.

Art Unit: 3612

Darbishire has rollers 113 and 250, disclosed as needle or ball rollers.

As to claim 5, Darbishire has needle bearings. The remaining claimed details as to the F and inverted channel are not included by necessity in the system improvement according to claim 1, which requires only one of the three items.

As to claim 26, Darbishire has support means 200 and slide out drawer 300.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 2, 6, 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darbishire in view of Tognetti.

Darbishire has all claimed features less the “stabilizing base foot”. However, it was known in this art prior to the invention of applicant to stabilize a roller support via a symmetrical arrangement of base feet as taught by Tognetti at 50, 52, and 80 in figure 3. Such an arrangement precludes upward forces on a non-symmetrical base foot at one side of the track. It would have been obvious to one of ordinary skill to provide in Darbishire a stabilizing base foot as taught by Tognetti in order to better support a roller track. As to claim 6, the details of the inverted channel are irrelevant to the claim structure which includes only one of the three items of claim 1. As to claim 24, the number of rollers is not a patentable distinction, but an obvious expedient to increase load capacity.

8. Claims 3, 4, 7-10, 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darbishire in view of Schneider, US 6,116,671.

Darbishire has an inverted J-channel. It would have been obvious to one of ordinary skill to provide in Darbishire an extended side wall as taught by Schneider at 76 in order to strengthen the inverted channel.

See parallel stationary rails 110 with rollers, and movable parallel rails 200 with load bearing surface at upper side thereof, claim 4.

As to claim 9, Darbishire shows two rollers with a third on each rail being an obvious expedient to reduce roller load.

As to claim 10, see above comments regarding extra rollers.

Art Unit: 3612

As to claim 15, Darbshire has support members 220.

As to claim 16, see accessory 300, considered a drawer, claim 28.

9. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darbshire in view of Tognetti and Schneider.

Paragraphs 5-8 above are incorporated by reference. It would have been obvious to one of ordinary skill to provide in Darbshire a stabilizing base foot as taught by Tognetti and an inverted U-channel as taught by Schneider for the reasons stated above.

As to claim 9, Darbshire shows two rollers with a third on each rail being an obvious expedient to reduce roller load and the supported load is an obvious expedient, not a patentable distinction.

As to claim 10, see above comments regarding extra rollers.

10. Claims 18, 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darbshire in view of Clark et al. or vice-versa.

It would have been obvious to one of ordinary skill to provide in Darbshire a ramp slide-out as taught by Tognetti in order to more easily load the vehicle. Conversely, It would have been obvious to one of ordinary skill to provide in Tognetti the rails and rollers of Darbshire in order to carry additional load.

As to claim 30, the dimensions of a ramp are not a patentable distinction, but an obvious expedient to one of ordinary skill in the art. Use of both a drawer and ramp is an obvious expedient to ease loading and storage.

***Response to Arguments***

11. Applicant's arguments filed 1/3/2005 have been fully considered but they are not persuasive. Applicant may wish to consult MPEP 706.02(l)(2) if applicable. However, the breadth of some claims such as claim 26 will render Rule 116 in effect as other rejections are certainly possible.

***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

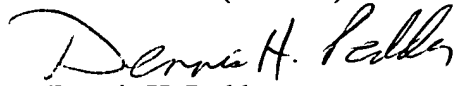
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (703) 308-2178. The examiner can normally be reached on 5:30-2:00.



Art Unit: 3612

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Dennis H. Pedder  
Primary Examiner  
Art Unit 3612

1/10/05

DHP

1/10/2005